In the Matter of	)	
	)	
Service Rules for the 698-746, 747-762	)	WT Docket No. 06-150
and 777-792 MHz Bands	)	
	)	
Implementing a Nationwide, Broadband,	).	PS Docket No. 06-229
Interoperable Public Safety Network in the	)	
700 MHz Band	)	

SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

Comments of the Region 33 (Ohio) 700 MHz. Regional Planning Committee

The Region 33 700 MHz. Planning Committee (hereinafter Region 33) is pleased to submit these comments to the Commission on their Second FNPRM on this very important topic.

Region 33 represents public safety first responder agencies throughout the entire political jurisdiction of Ohio, comprising a land area of nearly 41,000 square miles and a population of approximately 11.5 million, making it the 7th most populace state.

Region 33 admits it does not have the ability to fully and correctly respond to every aspect of the instant document, nor the high level business expertise to know what will work for a successful bidder of the "D" Block Auction. We feel that in Ohio, as well as nationwide, there is much land area which falls outside the coverage requirements of this rulemaking, as we have been able to understand them. We also know that emergencies of every type and criticality very often occur in these unpopulated areas. If the States and local agencies are not permitted to build, or otherwise obtain critical coverage where they need it, rather be required to purchase it from a presently unknown vendor at an unknown cost, then they are not properly serving their taxpayer citizens.

Region 33 is responding to selected sections of the instant document, as noted, and deemed to be important to Ohio agencies and operations.

In our ensuing narrative, we shall attempt to insert a reference to the Commissions particular Paragraph number in the instant document i.e. (¶21).

Region 33 Comments:

(¶21) I. We seek comment on our **proposed clarifications** regarding the entities that are eligible to use the public safety spectrum in the shared wireless broadband network as public safety users rather than as commercial users as well as possible clarifications of or changes to the

rules governing the structure and criteria of the Public Safety Broadband Licensee,[1] including whether to clarify further the requirement that the Public Safety Broadband Licensee must be a non-profit organization.

Region 33 does feel that further clarification is necessary and that the PSBL must remain non-profit.

(¶22) comment on the broad establishment of the concept of a public/private partnership to develop a nationwide interoperable 700 MHz network

Region 33 supports the concept as long as there is regional and/or local control over the applied use of this network. This would include public safety priority in emergencies. Cost containments must be established so local participation is both attractive and affordable to agencies that must rely on today's shrinking public dollar.

(¶28) Statutory and rule changes to clarify the licensing of the Public Safety Broadband License.

Region 33 feels it is important for all participants, whether public or private, to know where the responsibilities rest for each facet of the network.

I.   We seek comment on **financial and business issues** related to the establishment of the 700 MHz Public/Private Partnership.

(¶34) II.   In ¶33, we seek comment on **how public safety would use the broadband network**.

A.   Which types of public safety users can be expected to use the national public safety broadband network (rather than legacy or new local networks)?

Region 33 foresees approximately the same users of our voice systems wanting to access the data system. The "old school" thinking that it is for law enforcement only needs to be modified because many other public agencies have data needs as well. It could well be the same as the rules for 700 and 800 MHz. voice; any Part 90 eligible user may access the network. Federal agencies will want to use the system as well but they will have different rules.

A.   On what timeframes will the new networks be used?

Region 33 users assume Real Time.

C.   Which public safety communication functions (e.g., voice, remote data access, video upload, video download, photo download) are likely to migrate to the new broadband network (in the short- and or long-term) and which will remain on existing networks?

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[1] *See* 47 U.S.C. § 316 (permitting the Commission to modify any license if, in the judgment of the Commission, such action will promote the public interest, convenience, or necessity).

Region 33 entities with established voice networks will probably stay with them, but we can see them using this network for data, video and photo transmission to and from the vehicle as well as national database access.

D.   What factors will local jurisdictions weigh when making such decisions?

Region 33 agencies continuously state that costs and coverage will be the issues.

E.   To what extent will or should the public safety broadband network be interoperable with existing voice and data networks?

Region 33 feels that maximum local interface is essential to the success of the program. Many agencies need to communicate with their local networks for record-keeping and data retrieval. Not to have the ability would most certainly drive potential users away.

F.   Should the Commission encourage interoperability with legacy public safety systems and should interoperability with existing voice and data networks be a mandatory feature of the new broadband network?

Region 33 has always preached Interoperability and the public safety community in Ohio has been a willing congregation. They are the people and agencies who have made our SIEC so successful. They are at the point where they live and breathe Interoperability and we would encourage them not to accept anything new without it. Yes, the Commission should make this a mandatory feature of the new broadband network.

(¶35)   A.   We seek comment on issues arising from the possibility that in some areas a local jurisdiction may not elect to make use of the public safety broadband network. How extensive are such areas likely to be in the short- and long-term?

Region 33 believes that asking publicly supported agencies to commit to an unknown technology at an unknown price has created a large problem in budgetary planning, among other things. Our best guess is that if a poll were taken today, there would be many more non-participants than those willing to commit.

(¶36)   A.   We seek comment on the number of public safety providers in the country that have no interoperable broadband network. What is the size of the potential pool of public safety providers that may work with the Public Safety Broadband Licensee?

The Region 33 RPC is unaware of any dedicated public safety broadband networks in Ohio however there are likely agencies using commercial "air cards" for their data needs. It would appear as though the potential pool is virtually untapped as long as the price and coverage are acceptable.

B.   We also seek comment on the extent to which some public safety providers already have established interoperable broadband networks. Where have such networks been established, and

under what types of arrangements? To what extent are current interoperable public safety systems able to obtain lower prices and/or superior quality for commercially available, off-the-shelf technologies?

Region 33 RPC is not aware of any in Ohio.

C. How do such developed networks envision connecting to an interoperable, nationwide network?

Region 33 RPC is not aware of any in Ohio.

D. To the extent some public safety providers already have established interoperable broadband networks, might these providers have less incentive to participate with the Public Safety Broadband Licensee? If this is the case, how might the rules established in this proceeding help provide a nationwide, interoperable network?

Region 33 RPC is not aware of any in Ohio.

(¶37) E. We also seek comment on whether such eligible public safety users should be required to subscribe to the network for service, at reasonable rates or be subject to some alternative obligation or condition promoting public safety network usage in order to provide greater certainty to the D Block licensee.

Region 33 is adamantly opposed to agencies being required to participate in this service.

(¶37) F. We seek comment on whether any such obligation should be conditioned on the availability of government funding for access, for example, through interoperability grant money from the United States Department of Homeland Security, and whether we should require public safety users to pay for access with such money.

Region 33 believes that required participation without funding is morally wrong and an un-due burden on already cash strapped agencies. If assurances of continuing grant funding were received, perhaps participation would look more inviting. We feel strongly that an interoperable voice system is first and foremost, with interoperable data to follow with a reasonable cost.

(¶37) G. Whether and how we should regulate the fees charged to public safety users for network access. Would it be possible to ensure that small public safety providers pay a "Most Favored Nation" rate for broadband services, or for equipment?

Region 33 wonders who would define what a "smaller agency" was and how it is determined. What is the dividing line between "smaller" and "larger"? We feel that to make an agency with 1,000 or more vehicles pay more than one with 4 cars is unfair to the larger. They are already paying more, just by shear numbers.

(¶37) H.   How should the Commission ensure that smaller public safety entities can participate in the network?

Region 33 feels that by making the user fees fair and equitable to all concerned, it would allow the smaller agencies be able to participate.

(¶42) I.   What would be the best way to fund Public Safety Broadband Licensee operations?

1.   Should the D Block licensee or license winner be required to pay the Public Safety Broadband Licensee's administrative costs?

Region 33 feels that since this concept is basically an unfunded Federal mandate, funding for the expenses of the PSBL / PSST should come from the Federal Government, at least until such time as the "D" Block licensee was becoming profitable.

2.   Should we limit the D Block licensee's maximum obligations in this regard, and what would be a reasonable cap or limitation on expenses?

Region 33 does not believe it has the business related financial expertise to know what is "reasonable" in this scenario.

3.   Assuming government-allocated funding were available, would this be the best solution for funding the Public Safety Broadband Licensee?

Region 33's opinion is that voice communication must take precedence over broadband data. When all the voice capacity that is needed has been achieved, then we start looking at what we can do with a data system. If the proposed Broadband network will provide VoIP for all users, then maybe we could look upon it in a more positive manner.

4.   What is the extent to which we can adopt incentive-compatible rules for the Public Safety Broadband Licensee and the public safety providers it represents?

Region 33 feels it has to be affordable to the public safety agencies and yet not cause the "D" Block licensee financial difficulties. Having the network builder go bankrupt half way through construction would not be good for anyone.

5.   What set of rules would encourage most or all public safety providers to collaborate with the Public Safety Broadband Licensee to establish a nationwide, interoperable broadband network?

Region 33 agencies say that after fair and reasonable costs are established, equitable rules for all users are paramount. There should not be different rules for different users.

6.   Under what circumstances might some public safety providers choose not to participate in a relationship with the Public Safety Broadband Licensee?[2]

Region 33 has been told by numerous potential users that the number one consideration of participation in a nationwide broadband data network would be costs, both for subscriber equipment and recurring subscription fees.

(¶43)   E.   Does the Commission have the legal authority to use the Universal Service Fund to support the Public Safety Broadband Licensee's operational expenses[3] and if the Commission has legal authority to do so, should it exercise this authority?

Region 33 feels this is not something for us to decide. Ask your attorneys.

(¶44)   J.   We also seek comment on how any excess revenue generated by the fees or other sources of financing obtained by the Public Safety Broadband Licensee from non-profit entities should be used.

1.   Should any excess revenues be permitted at all?

Region 33 believes that if the PSBL generates any excess revenue, that be used to offset operating expenses with the remainder going toward infrastructure improvements.

2.   If we do allow any excess revenue generation, should we limit this amount? How should we determine what that amount should be?

Region 33 doesn't believe that the user community is the correct asking point. Perhaps the PSBL and the Commission should field a "Joint Task Force" to examine some of the issues outside the realm of the RPC's.

3.   Should we allow the Public Safety Broadband Licensee to hold a certain amount of excess income as a reserve against possible future budget shortfalls or should we require that excess income be used for the direct benefit of the public safety users of the network, such as for the purchase of handheld devices?

Region 33 feels that, if strong accounting practices are employed, limiting the amount of time excess funds can be retained, could present a workable solution. Any excess over a certain set amount should then go for improvements in infrastructure or general rate reductions to the users.

4.   Should we further specify what would be a "direct benefit" or permissible use of such funds?

Region 33 believes the Joint Task Force could best determine this issue.

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[2] *See Second Report and Order*, 22 FCC Rcd at 15454 ¶ 470.

[3] *See, e.g.*, 47 U.S.C. § 254(c)(1), (h).

(¶44) K.   We seek comment on whether the Public Safety Broadband Licensee may legitimately incur certain reasonable and customary expenses incurred by a business, consistent with the constitution of the Public Safety Broadband Licensee and the nature of its obligations as established by the Commission.

Region 33 understands that if there are obligations established by the Commission, then there would have to be reasonable and customary expenses incurred.

(¶48) F.   Should Congress designate some of the Public Safety Broadband Licensee's board members?

Region 33 suggests the membership of the PSBL be limited to no more that nine members, jointly selected and approved by both the FCC's PS&HSB and the LMCC. If Congress was involved they would want representation on the PSBL Board that's not a good idea.
If that happened, it could stale-mate the entire program by permitting whimsical roadblocks whenever one Congressman thinks another is getting more that him.

(¶48) G.   How can the Commission ensure an oversight role for Congress, both in the operations of the Public Safety Broadband Licensee and the 700 MHz Public/Private Partnership?

Region 33 wonders why this is necessary. We've previously stated we don't think it's beneficial or necessary. We are realistic enough, however; to know that if Congress wants on the Board, nothing the public safety community says will matter.

(¶51) E.   How can the Commission better exercise oversight over the activities of the Public Safety Broadband Licensee and the commercial partner? What additional measures, if any, should the Commission take to ensure the appropriate level of oversight?

Region 33 suggests the membership of the PSBL be entirely from the not-for-profit public safety community. Perhaps ex-officio members could be from the private sector to serve as technical advisory role but not voting on the governing issues. In no event should Congressional oversight be considered, for reasons previously stated.

(¶52) H.   We seek comment on whether providing a nationwide, interoperable broadband network might be more effectively and efficiently accomplished by allowing State governments (or other entities that have or plan interoperable networks for the benefit of public safety) to assume responsibility for coordinating the participation of the public safety providers in their jurisdictions.

Region 33 is fortunate we have a very pro-active Statewide Interoperability Executive Committee (SIEC). They have been instrumental in accomplishing efficient and effective voice interoperability throughout the State of Ohio, a fact recognized by

Governor Ted Strickland. He has designated our SIEC as the States primary body for contact and advice on all interoperability issues.

The SIEC was responsible for the drafting and submission of Ohio's Interoperability Plan to the U.S. Department of Homeland Security, which was approved and accepted the Plan on its first submission. Ohio was one of only a few states to achieve this goal.

The membership is broad based, with some members having great expertise in system design, implementation and management. They maintain an on-going dialogue with the various wireless service providers in Ohio and are kept up to date on developments in the field.

Region 33 firmly believes any "system" without local oversight would be unmanageable and would possibly be met with resistance from those agencies who need the service the most. With oversight from the SIEC, member agencies would have a hand in policy and procedure development and would have a much more comfortable feeling about participating in the network.

This being said, some states may not have Ohio's positive SIEC experience and expertise.

(¶54) Whether the public interest would best be served by the development of a nationwide, interoperable wireless broadband network for both commercial and public safety services through the 700 MHz Public/Private Partnership between the D Block licensee and the Public Safety Broadband Licensee, and whether we should therefore continue to require that the D Block licensee and Public Safety Broadband Licensee enter into the 700 MHz Public/Private Partnership.

Region 33 thinks that the public interest would best be served by a timely deployment, with minimum delays, of a system nationwide. We feel much of the critical infrastructure is already in place, in the form of existing towers, and that this project will not necessarily have to start at ground level everywhere.

¶55 In terms of the 700 MHz Public/Private Partnership, we seek comment on issues including:

1.   What the D Block licensee is required to construct.

Region 33 believes public safety needs to be aware of the fact that we can design and require ourselves out of this opportunity by demanding the perfect system bring with it its subsequent excessive costs. The scope of this project demands an open mind and clear understanding of the realities of the cost of perfection. Without rationality, this opportunity will never happen.

2   The operational roles of the D Block licensee and Public Safety Broadband Licensee once the network is constructed.

Region 33 believes there needs to be clear understanding and realistic expectations on both sides for this partnership to work effectively and efficiently. This, followed up with a

comprehensive MOU will make the desired end result a viable and valuable tool for public safety.

(¶56) L. We seek comment on whether, if a default due to the failure of a winning bidder for the D Block license to execute an NSA with the Public Safety Broadband Licensee, we either should offer the license to the party with the next highest bid, in descending order, or promptly auction alternative license(s) for the D Block spectrum without the 700 MHz Public/Private Partnership conditions and subject to alternative service rules.

Region 33 believes that if, or when, the public/private partnership conditions become insurmountable, then there will have to be alternative service rules. If there is no successful deployment of a public/private partnership, after repeated tries and failures to obtain a viable nationwide bidder, the spectrum should be returned to the Regions, for local development as best fits the needs of the local agencies.

(¶58) I. We seek comment on whether to adopt changes to the requirements of the network that the D Block licensee is required to construct, and whether to modify the required schedule for that construction.

Region 33 cannot help but feel that the very stringent technical requirements first published in the PSBL's Statement of Requirements (SOR) were too restrictive and the potential bidders felt some trepidation in attempting to meet them. Perhaps the PSBL and the Commission should explore the concept of a joint task force, made up from both the public and private sector, to review the SOR and perhaps make it more realistic.

(¶59) i. Sufficient signal coverage to ensure reliable operation throughout the service area consistent with typical public safety communications systems (*i.e.*, 99.7 percent or better reliability).

Region 33 agrees sufficient coverage must be provided however typical system reliability figures we are familiar with are usually 95%. 99.7% approaches perfection which is usually unobtainable and extremely costly to attempt.

(¶59) ii. Sufficient robustness to meet the reliability and performance requirements of public safety. To meet this standard, network specifications must include features such as hardening of transmission facilities and antenna towers to withstand harsh weather and disaster conditions, and backup power sufficient to maintain operations for an extended period of time.

Region 33 agrees robustness is vital in any public safety system design.

(¶59) iii. Sufficient capacity to meet the needs of public safety, particularly during emergency and disaster situations, so that public safety applications are not degraded (*i.e.*, increased blockage rates and/or transmission times or reduced data speeds) during periods of heavy usage.

Region 33 believes that capacity is a double edged sword. Daily operations would constitute 98% of the systems usage and this capacity is usually easily obtainable. To design an entire statewide or nationwide system to be able to handle all the possible traffic in an emergency or disaster situation is nearly impossible. In Ohio, for example, we have allowed for this with 11 regional interoperable communications vehicles and one with much greater capability located in the centrally located state capitol city, Columbus. Any of the regional vehicles can be on scene anywhere within an hour or two and the large unit within four hours. A way should be developed to provide broadband connectivity to these mobile communications platforms for system augmentation during an emergency.

(¶59) vi. Security and encryption consistent with state-of-the-art technologies.

Region 33 notes that these systems will interface with existing and future state and Federal data bases which have rather stringent security and encryption requirements now. The PSBN must be capable of accommodating these requirements.

b.   Whether to provide public safety users with access to D Block spectrum during emergencies and, if so, under what terms?

Region 33 believes in a declared Emergency, public safety should have pre-emptive use of the amount of spectrum it needs to accomplish its mission. If this includes some, most or all of the "D" block, it needs to be possible.

c.   The build-out obligations of the D Block licensee and whether such obligations should be revised in conjunction with a modification to the D Block license term.

Region 33 believes the D Block license term needs to be renewable, but it also needs to be able to be modified if technology and equipment have changed significantly in that decade. The build-out obligations should be realistic and obtainable, so as to not discourage cooperative partnerships in the near future.

2.   With regard to network construction requirements, we seek comment on:

(¶61) We seek comment on whether we should clarify or modify any aspect of the technical network requirements adopted in the *Second Report and Order* or otherwise establish with more detail the technical requirements of the network.

Region 33 agrees the network requirements need to be as complete and defined as possible without the danger of over building and therefore over costing us out of reality. Every agency has, at some point, had to reduce requirements in order to meet budget constraints. The PSST may have to examine that possibility in the overall final system design.

(¶62) M.   Would modifications to the technical requirements of network construction provide greater assurance that the required network would be economically viable? Conversely, would greater specificity hinder the NSA negotiations or otherwise inadvertently impact the success of the 700 MHz Public/Private Partnership?

Region 33 feels that any further 'specificity' will certainly hinder the success of the network construction, unless that 'specificity' is to relax the requirements of the provider. Over regulation will only cause network costs to increase.

(¶63)   B.   What technical requirements should be specified in advance, rather than being left to be negotiated after the auction, and whether there are any critical aspects of the network, either in the existing requirements or beyond those already addressed, that it would be beneficial to specify or clarify in the rules in order to increase bidder certainty regarding the cost of the D Block obligations.

Region 33 believes that the basic system requirements need to be clearly defined early so as to allow for a more competitive 'apples to apples' bid among potential providers.

(¶64)   C.   Are any changes to requirements needed to reflect the practical differences between the architecture of traditional local wireless public safety systems and the architecture of nationwide commercial broadband network systems?   If so, we seek comment on what requirements, modifications, or clarifications we should adopt.

Region 33 doesn't have any agency owned broadband networks in Ohio that we know of but we envision a local system to be like a small cluster of cells. A nationwide system would seem to be just bigger and bigger clusters of these cells to cover a wider geographic area. Other than operational requirements being fair and equitable, we don't feel qualified to speak to the other issues. We do believe, however, the requirements of interoperability must be respected as much as possible without undue burden upon compliance to those same parameters.

D.   We seek comment on whether to require national standardization in the implementation of these network requirements, and the extent to which national standardization will help the network to achieve efficiency and economies of scale and scope.

Region 33 believes the more standardized the requirements, the better chance of economic competition to constrain financial commitment both at the provider and the user level. This would also aid in mutual aid responses outside one's home area. A mobile terminal from Ohio would work in New Orleans (as did our 800 MHz. radios in the Katrina response), or in Sioux City or Phoenix.

(¶65)   1.   A mechanism to automatically prioritize public safety communications over commercial uses on a real-time basis and to assign the highest priority to communications involving safety of life and property and homeland security consistent with the requirements adopted in the *Second Report and Order.*

Region 33 members feel this is a very important issue. Some felt it should be a full time issue and others envisioned a Network Operations Center (NOC) somewhere who would institute the higher priority on an as needed basis.

2.   Operational capabilities consistent with features and requirements specified by the Public Safety Broadband Licensee that are typical of current and evolving state-of-the-art public safety systems (such as connection to the PSTN, push-to-talk, one-to-one and one-to-many communications, etc.)

Region 33 users feel it is indeed important to stay current with emerging and cutting-edge technology.

3.   Operational control of the network by the Public Safety Broadband Licensee to the extent necessary to ensure public safety requirements are met.

Region 33 members felt it is as important to have operational control as it is to be able to verify it.

4.   A requirement to make available at least one handset that would be suitable for public safety use and include an integrated satellite solution, rendering the handset capable of operating both on the 700 MHz public safety spectrum and on satellite frequencies.[4]

Region 33 members state the question of satellite integration was proffered before, and if it is implemented, then public safety's access to and use of, must be assured as well at minimum cost, if not included in the overall package.

(¶67)   E.   How do the technical requirements of different public safety networks differ based upon factors such as intended user base and local morphology (e.g., urban vs. rural environments; fire, police, emergency medical service and other first responders; in-building vs. outdoor usage; high-speed vehicular vs. pedestrian public safety users, etc.)?

Region 33 members responded that the technical requirements of different (local) safety networks are, and will be, as varied as the topography and vocational application of the user. The police officer wants fingerprints, the firefighter wants floor plans. The Hazmat member wants on-scene chemical information; the SWAT Commander wants previous armed conflicts. The requirements vary with the 'requiror.' And each incident is likely to be different.

1.   How do these technical requirements differ based upon factors such as type of use (mission-critical voice and data versus non-mission-critical communications)?

Region 33 members didn't feel the requirements changed between mission-critical and non-mission-critical, what changes are the importance of the information being exchanged.

2.   What purposes, if any, do public safety users make of commercial wireless networks today for mission-critical and/or non-mission-critical communications?

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[4] *Id.* at 15433-34 ¶ 405. We seek comment on the responsibilities of the D Block licensee with regard to the operation of the shared network elsewhere herein.

Region 33 users report their wireless data is going to primarily all commercial providers because of the speed that is available. Also, Nextel's IDEN network does offer some degree of backup to public safety officials during major events.

How distinct in practice is the line between mission-critical and non-mission-critical communications?

Region 33 members don't think there is a large distinction between mission critical communications and non mission critical communications. Again both are important, the difference comes in the application of the attained information and the outcome. The key for mission critical communications is the probability of blocking. Ideally this number is in the 10-20% range.

3.   How do network construction and operation costs vary among different types of public safety networks and between public safety and commercial networks?

Region 33 members note there is a great difference between owned and leased systems. The main reason public safety has owned their own systems over the years is the need for cost control and budgeting over the long term.   There is no such cost containment assurances when using a commercial provider.   The user is basically at the service provider's mercy.

Most public safety systems are constructed with total redundancy beginning at the board level. Most are designed with hot standby capabilities in case of failure. Transmitter site links are normally redundant. HVAC systems are redundant. 24/7 alarm monitoring for system anomalies is common. Sites have generators for backup power with automatic transfer to and from commercial power. Critical components are protected with uninterruptible power supplies or constantly operate on batteries. This extensive protection is not usually the case with commercial providers.

4.   To what extent can a commercial provider make use of publicly-owned or leased property, and how could use of such facilities affect the cost of constructing and operating a public safety broadband network?

Region 33 members advise co-location on existing radio towers could help defray some of the build-out expenses, which would, in turn, reduce overall costs which should reduce subscriber fees. It would have to be on a case-by-case basis as there are many factors involved but, conceptually, it is a good idea.

(¶67) F.   We seek comment on whether we should modify or further clarify any aspect of the broadband technology platform specifications provided in the *Second Report and Order*.

1.   Would clarifying that the D Block winning bidder has the right to make the final technical determinations with regard to the network platform serve the public interest?

Region 33 feels as long as those definitions are in the spirit of the shared bandwidth and the priority of public safety.

2.   Should the Commission specify the precise public safety services and applications that must be carried or that need not be carried, beyond typical broadband applications (*e.g.*, Internet access, video, multimedia), such as cellular telephony, dispatch voice service, push-to-talk, etc., and if so, what should they be?

Region 33 feels the Commission should not specify what and what not or, if they do, it should only outline minimum requirements when implemented. There is risk by specifying services and applications. We think the industry should lead that technology and if it can be offered to the private sector, it can be made available to the public safety sector. The winner is going to develop the latest and best technology to enhance their marketability.

(¶68)   G. We seek comment on the payment and funding models employed by public safety users when they rely upon commercial wireless services.

Region 33 members report funding typically comes from the agencies operating budget.

1.   Are fees assessed based on usage, number of users, or other factors?

The service providers Region 33 is aware of charge by airtime. This is usually a flat rate per unit per month.

2.   What provisions are typically made for unanticipated demand for services and how are these reconciled with fixed budgets?

In Region 33, unanticipated, unbudgeted or under-budgeted expenses are paid for by transferring funds from some other budgetary line item that can be 'shorted' or has a surplus.

(¶73)   G.   Should we eliminate the specific requirement of 99.7 percent network reliability and impose only the general requirement of "reliable operation throughout the service area consistent with typical public safety communications," leaving the specific level of reliability to negotiations? Should we specify a different level of reliability, such as 95 percent reliability over 95 percent of a defined area?[5] Does the latter standard better reflect a typical level of reliability in public safety communications systems?

Region 33 feels that 99.7% network reliability is an unrealistic goal and believes it should be reduced. The 95% / 95% is more consistent with today's public safety systems.

H.   Is the typical level of reliability in public safety systems a relevant factor for cellularized broadband systems?   Are there any real-world examples of reliability based on cellularized broadband systems used by public safety?

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[5] *See* Cyren Call Petition for Reconsideration at 8; Frontline Petition for Reconsideration at 23.

Region 33 members are not familiar with this issue. Ideally, reliability should be in the 99% range, but attaining this is nearly impossible on a nation-wide scope. The Commission will get plenty of comments from proposed bidders on this parameter. Public safety will have to be open minded to reality.

I.   We also seek comment on whether, in the event we continue to require a specific level of reliability, we should nevertheless expressly provide that the parties have flexibility to mutually agree to a different level in particular geographic areas.

Region 33 feels that, for system start-up, we should allow an element of flexibility, with an extended period of time to refine and improve the reliability.

(¶74)   J.   We seek comment on whether to further specify or modify the requirements of the network regarding robustness and hardening.

Region 33 feels there has to be a limit on robustness and hardening because of the potential cost. It is impossible to design a system that will absolutely be available and not susceptible to terrorism, nature and disasters.   The potential bidders may be the best source of determining where that limit exceeds practicality.

K.   Should we specify the minimal number of hours that base stations and network equipment must be capable of operating in the event of a power outage?

Region 33 system owners were mixed but basically felt systems serving public safety need to remain operational and require a design to meet that need.

1.   Should we require an onsite power generator and a specific supply of fuel for each base station?

Region 33 members were mixed on this issue but the majority felt systems serving public safety need to remain operational and require a design to meet that need.

2.   Should we simply provide that the network must meet the same requirements regarding backup power applicable to commercial mobile radio service providers, given that these requirements were themselves established to meet homeland security and public safety goals?[6]

Region 33 would be agreeable to this.

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[6] *See, e.g.,* Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, EB Docket No. 06-119, WC Docket No. 06-63, *Order on Reconsideration,* 22 FCC Rcd 18013 (2007).

3.   Should we address whether and to what extent redundant infrastructure must be provided, such as provisions for overlapping cell sites that could provide backup coverage in an emergency, and if so, how would such provisions impact the viability of the system and its cost?

Region 33 members realize it's all a matter of money and what the market can bear. While most of public safety is accustom to and demands redundancy, reliability and coverage, the reality of providing this level of service to a nation-wide system is going to be excessively costly. The ultimate result will be that the Commission will determine the system is too expensive to build and scrap the idea and public safety will suffer as a result of our own greed. While overlapping sites would be ideal, it is not realistic for a nation-wide footprint.

I.   We seek comment on **network reliability and construction**.

(¶80)   A.   We seek comment on how previously developed systems have addressed issues such as network reliability, including hardening of the network, provisions for backup power, etc.   (¶36)   We seek comment on whether, in order to provide the D Block licensee with appropriate flexibility to achieve an efficient and effective implementation of the 700 MHz Public/Private Partnership obligations, we should amend our rules to clarify that the D Block licensee may construct and operate the shared wireless broadband network using the entire 20 megahertz of D Block spectrum and public safety broadband spectrum as a combined, blended resource.

Region 33 members were of mixed feelings on this issue. Some felt that as long as the spectrum can be isolated to provide public safety the needed spectrum in emergency situations, and an equitable share of the bandwidth during the remainder of the time, let it be combined and blended. Some others felt that enough grief was experienced in the 800 MHz problems that lead to rebanding, the public and private portions of the band needed to have clear and protected divisions. Others didn't know if blending the systems might cause problems but wanted assurances that would rectify the network if it did.

(¶81)   We seek comment on whether permitting the combined use of spectrum in this fashion would provide for a more efficient and effective use of spectrum, whether it provides further flexibility to evaluate and use all available wireless broadband technologies to build and operate the network and thus promote our ultimate goal of making available a nationwide interoperable broadband network for public safety users.

Region 33 believes it would provide more flexibility, and as long as public safety had their priority and assurances of interference protection, we would be agreeable.

(¶85)   A.   We seek comment on whether we should continue to require that the D Block licensee provide the Public Safety Broadband Licensee with priority access, during emergencies, to the spectrum associated with the D Block license.

Region 33 believes that this is an absolute necessity.

(¶86) B. If we continue to require that the D Block licensee provide the Public Safety Broadband Licensee with priority access, during emergencies, to the spectrum associated with the D Block license, we seek comment on whether we should provide more clarity on the circumstances that would constitute an "emergency" for this purpose. If so, we ask whether any or all of the following events should define an "emergency":

1. The declaration of a state of emergency by the President or a state governor.

2. The issuance of an evacuation order by the President or a state governor impacting areas of significant scope.

3. The issuance by the National Weather Service of a hurricane or flood warning likely to impact a significant area.

4. The occurrence of other major natural disasters, such as tornado strikes, tsunamis, earthquakes, or pandemics.

5. The occurrence of manmade disasters or acts of terrorism of a substantial nature.

6. The occurrence of power outages of significant duration and scope...

7. The elevation of the national threat level, as determined by the Department of Homeland Security, to either orange or red for any portion of the United States, or the elevation of the threat level in the airline sector or any portion thereof, as determined by the Department of Homeland Security, to red.

Region 33 members responses were mixed on these questions, mostly on the level of what constituted an "Emergency" We do believe that, generally, any time lives and/or significant property is at risk, an "Emergency" exists. This is an example of where local control (i.e. SIEC) would be of great value, rather than a policy board(s) somewhere across the county, who has no direct knowledge of the local situation at hand.

C. Would this proposed definition of "emergency" (B 1-7) be too burdensome on the D Block licensee?

As stated above, Region 33 believes the best place for implementing Emergency procedures is on the local level.

1. Should we permit the parties to the NSA to propose different or additional scenarios that should be considered emergencies?

Region 33 would not object to this and is open to dialogue for any interested, _involved_ party.

2. Should we make [it] explicit that priority access in emergency situations be limited to the geographic and/or jurisdictional area directly affected by the emergency?

Region 33 would agree to geographic and/or jurisdictional limitations.

3.   Should we establish time limits on the duration of priority access? If so, how should such time limits be based?

As above, Region 33 would agree to limitations during the time an Emergency exists.

4.   Alternatively, should we establish limits on the priority access given to the D Block spectrum capacity, for example by limiting public safety's priority access to D Block spectrum capacity in emergencies to 50 percent?

Region 33 feels limits may be feasible but 50% may not be the right number in every case. In a "worst case" scenario, the "D" block licensee should make available what public safety needs to accomplish the mission but only as long as the Emergency (saving lives and property) exists. After action activities (clean-up etc) are not an Emergency under this definition.

II.   Comment is sought on **network interoperability and ubiquity of access** throughout the United States.

(¶90) G.   We seek comment on whether we should revise the performance requirements that we imposed on the D Block licensee with regard to building out the nationwide, interoperable broadband network and, if so, how those requirements should be revised.

Region 33 believes that the lack of a successful bidder in the recent "D" Block auction may have been due to the system requirements being too stringent. Revisions may be necessary to make the project more desirable, realistic and obtainable.

(¶91) H.   We seek comment on whether we should retain the existing end-of-term population benchmark of 99.3 percent or whether instead we should adopt a lower population benchmark that is equal to or more aggressive than the 75 percent benchmark that is applicable to the C Block. We note that each of the top four nationwide carriers is currently providing coverage to approximately 90 percent or more of the U.S. population.[7] Given that existing commercial wireless infrastructure already covers approximately 90 percent of the population, we seek comment on whether it is reasonable to expect that the D Block licensee would be able to meet at least a 90 percent of the population coverage requirement or more, or whether some other coverage requirement is appropriate.

Region 33 believes 99.3% of population is unrealistic and 90% would be more attainable and feasible. Some of our agencies are more concerned about the rural, under-populated areas that will lack coverage under this proposal.

(¶95) N.   Depending on which performance benchmarks we may ultimately adopt, should we include benchmarks that extend beyond the end of the initial 10 year license term? If so, should we also extend the term of the D Block license accordingly?

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[7] UBS Warburg Investment Research, U.S. Wireless 411, at 17 (Mar. 18, 2008).

Region 33 would hope that whatever benchmarks are adopted would be attainable within a ten year period. If this is not possible, then the Commission will need to extend the terms of the D Block license accordingly.

(¶99) F. We also seek comment on whether we should revise our rules to permit the D Block licensee to use Mobile Satellite Service to help it meet its build-out benchmarks.

Region 33 feels if using satellite service would be beneficial to meet build-out benchmarks without significantly affecting cost or negatively affecting coverage we would be agreeable.

(¶104) O. We further seek comment on whether, to reduce the cost of meeting our build-out requirements, we should adopt rules to promote or facilitate access by the D Block licensee to public safety towers and/or rights of way, and if so, what measures would be appropriate?

Region 33 believes that it would be perfectly proper for the Commission to promote the use of existing public safety towers to the extent the towers are capable of the added load. If tower strengthening is needed, the "D" Block winner will bear such expense. This should ultimately be up to the tower owner whether or not to allow such use and not have a requirement forced on them by the Commission.

1. Should we clarify that the D Block licensee has flexibility to provide this type of incentive, such as by agreeing to reduced rates for services to public safety entities that provide access to their towers, and otherwise leave the issue to be negotiated between the two licensees and the relevant public safety entities?

Region 33 believes that if doing so would expedite the build-out of the system and reduce costs to the users, then it's a good thing.

2. Are there impediments that might limit the ability of public safety entities to enter into such arrangements?

Region 33 agencies see any issues dealing with user costs will be the biggest determining facture in participation.

3. If so, what steps can the Commission take to address such impediments that are within its authority and consistent with the public interest?

Region 33 user agencies would like some assurance that fees would be as fair and reasonable as possible.

(¶105) P. As an alternative approach for establishing construction requirements, we seek comment on whether we should employ a "two tiered" build out obligation, such that the D Block licensee would be allowed to incrementally enhance its network. Under this approach, the D Block licensee could satisfy its "first tier" build out requirement by meeting a subset, or some lower-cost aspects, of the technical requirements we adopt for the public-private partnership, and later enhance the network to meet public safety needs.

Region 33 users feel that a tiered approach would be acceptable and is certainly not a new approach to high technology projects. Some assurance that the second tier would be

accomplished at some point before the on-hand equipment became obsolete and need replaced would be welcome also.

(¶132) B.   We invite comment on whether we should reconsider any aspect of the rules regarding service fees to be paid by public safety users, including any applicable fees for normal network service and fees for priority access to the D Block in an emergency.

Region 33 member agencies are, in many cases, struggling to get by on the public dollars allocated to them. Any costs associated with the Broadband Network need to be as reasonable as possible so the agencies can afford the service.

(¶133) We also seek comment on whether particular uses of the public safety broadband network by public safety users should be free and others fee-based.

Region 33 agencies have to establish budgets within which to operate. This would include a set, fee based, amount for the broadband service. In a declared emergency there should not be an automatic increase in fees paid just to handle an increased load of traffic.

(¶180) D.   We seek comment on whether we should revise or eliminate the $10 million cap on relocation expenses.

Region 33 feels that to establish a "cap" when dealing with an unknown solution is not viable. Just in our Region, we have a number of agencies who will require extensive equipment replacement. From what we have heard of the country-wide situation, the $10 million cap is not realistic.

(¶181)   3.   We seek comment on whether extension of the August 30, 2007, deadline established in the *Second Report and Order* would be inappropriate.

Region 33 does not not think the August 30, 2007 cut off date should be changed at this late date. That was about 10 months ago and agencies have had to make adjustments in their rollout of the affected frequencies. To ask them to change the plan again would be doing them a disservice.

(¶184)   L.   If the D Block were split into regional licenses, to what extent, if any, should we modify any of the policies or rules previously adopted or proposed herein with respect to a D Block 700 MHz Public/Private Partnership?

Region 33 members felt if it is split up, the policies and rules will have to be modified to be applicable on a regional basis with a more subjective oversight. Regional licensing is bound to create some major issues, many of which are listed in questions 1-5 in this section. A single licensee would certainly be preferred.

1.   How would the Commission ensure that the primary goal of a national, interoperable, communications network for public safety agencies is not jeopardized? In particular, how would we ensure interoperability of communications between public safety users of different regional networks?

Region 33 members felt it must have realistic parameters, and be profitable yet affordable. The operational parameters will have to be such that they are uniform and consistent as much as possible. We feel one licensee would have to be assigned the Lead role. They would be responsible for nation-wide interoperability. It seems likely the vendors would also want the seamless nation-wide interoperability as a marketing tool for commercial users.

1. How would we ensure that interoperable communications capabilities are extended to first responders in every region in an equitable fashion?

Region 33 feels this would be the role of the overall Administrative body, be it the PSBL / PSST or the Commission. That body must assure affordability to the local regions. Money will be the biggest deterrent to participation.

2. What obligations should we adopt to facilitate coordination between D Block licensees or to otherwise promote the ability of the regional networks to function as a seamless, nationwide network for public safety users? For example, should we mandate that each D Block licensee provide roaming to the public safety users of all other D Block regional networks?

Region 33 members all said roaming will have to be an essential component for public safety, in order to assure interoperability nationwide.

3. What rules should apply in the event that some regional licenses are successfully auctioned while other regional licenses are not successfully auctioned?

Region 33 members feel the roaming and regional interoperability will have to be available on whatever portion of the system is built out. There will be holes, but until it can be implemented wide-scale, it should be compatible everywhere it is. This issue alone is a primary reason to create one nation-wide licensee. One option would be to include vast areas of "radio wasteland" with major market area, but this will be difficult to divide fairly, at least in the eyes of potential bidders. No matter the division, they will scream foul.

(¶185) 4. Do public safety users in rural areas have different or unique technical requirements as compared to public safety users in more densely-populated areas? If so, to what extent are commercial entities that specialize in rural coverage suited to serving public safety users in such areas?

Region 33 members were unanimous in that the safety of life and property is the same in rural or metropolitan areas. Building construction may differ but the mission is the same.

(¶192) II. We seek comment below on the particular **service rules that we should adopt for the D Block in the event that we determine that the D Block should be licensed without any 700 MHz Public/Private Partnership obligation.**

(¶198) A.   We intend not to revisit these determinations if the D Block license is re-auctioned without a 700 MHz Public/Private Partnership obligation.   Dividing the current D Block into smaller block sizes may not be in the public interest considering that a 10-megahertz spectrum block made up of paired 5-megahertz blocks can facilitate more innovative and efficient broadband deployment than any smaller block sizes in this band. We seek comment on our intention not to revisit these determinations.

Region 33 members believe the Commission will be doing a disservice to public safety and to the nation as a whole by not developing the 700MHz public/private partnership.   We believe this is the only way public safety will have a nation-wide network that has the necessary safeguards and features to support large scale disaster communications anywhere in the nation. We hope the Commission can adjust the requirements in such a manner that makes it attractive to bidders and protects the interests of public safety and that a second auction successfully occurs.

(¶205) B.   We seek comment on whether we should revisit and adopt any other rules or conditions for the D Block in the event that we auction it without a mandatory public/private partnership condition.

Region 33 members feel the Commission should require the winner commit to profit sharing to fund further public safety communications. Use this monetary windfall to fund voice communications for a truly nationwide interoperable system.

(¶206) C.   In the event that that we determine not to proceed with the 700 MHz Public/Private Partnership approach requiring a partnership between the D Block licensee and the Public Safety Broadband Licensee, we seek comment broadly on how we may still achieve the public interest goal of ensuring a nationwide, interoperable broadband network is available for the use of public safety, and whether there are further revisions or obligations we should impose on the Public Safety Broadband License to achieve these goals.

Region 33 members suggest that the Commission make sure that any bandwidth that is developed is, at least, made available to public safety at reduced rates, and allow the local agencies to trade spectrum for air-time.

(¶208) D.   We previously considered one option in the absence of a public/private partnership with the D Block auction winner, that would permit the nationwide Public Safety Broadband Licensee to provide unconditionally preemptible access to the public safety broadband spectrum to commercial service providers, on a secondary basis, through spectrum leases or in the form of public/private partnerships established by contract with the Public Safety Broadband Licensee. In this respect, the Public Safety Broadband Licensee would enter into arrangements with one or more commercial service providers for accessing or sharing their communications systems infrastructure in order to create the nationwide, interoperable, broadband public safety communications network. (¶207) We seek comment on this option as an alternative to the particular public/private partnership model that we earlier endorsed as our preferred approach in the *Second Report and Order*. This option would preserve the concepts of

a unified broadband standard and nationwide level of interoperability, as managed by the Public Safety Broadband Licensee on behalf of the public safety community.

What alternatives or variations on this approach may be more appropriate?

Region 33 members are concerned about who would receive the funds generated by lease agreements between the PSBL and the commercial operators?   Would public safety have to pay for use in this scenario?

E.   If we do adopt an approach whereby the Public Safety Broadband Licensee could enter into multiple contracts with commercial providers, would it be necessary for the Commission to establish certain baseline performance requirements, including those for broadband system architecture, interoperability, build-out of national coverage, unconditional preemption of commercial use, and disaster restoration capability?

Region 33 members suggest baseline requirements would be necessary to insure national conformity at some level.

1.   If the Commission establishes such requirements, what should they be?

Region 33 believes they should be simple, direct, not financially taxing, and comprehensive.

2.   Alternatively, should we require or allow any or all of these issues to be addressed by the Public Safety Broadband Licensee rather than the Commission?

Region 33 feels they should be negotiable, so as to not be so restrictive to negate any progress or completion.

(¶211)   F.   Another alternative may be to permit build out on a regional, state, or local basis of the broadband spectrum.   This could be done either through a spectrum lease with the nationwide Public Safety Broadband Licensee, or by rescinding the nationwide license and allowing regional, state, or local licensing of this spectrum.   We seek comment on both approaches.

Region 33 has heard some areas have already built out local networks. This is, of course, an option, and one that would be better than protracted delays because of bureaucratic red tape.

(¶212)   We seek comment on whether, in the absence of a public/private partnership, we should continue to obligate the D Block auction winner to fund the relocation of those public safety narrowband systems operating in the lower portion of the public safety spectrum.

Region 33 feels that this is the correct action for the winner to fund, without strict limitation.

E.   Should we grandfather existing operations until such time as relocation funding is secure, and require the Public Safety Broadband Licensee to include relocation funding in its RFP process?

Region 33 feels this would be the fair and proper action of the part of the Commission.

1.   What alternative sources of funding may be available to facilitate this transition?

Region 33 feels that the funding should come from the private sector since they will be able to generate profits from this frequency block. The use of public funds would be unfair to the taxpayers who, in most cases, paid for the local systems initially.

E.   We also seek comment on the date by which such relocation must be completed.

1.   Should we continue to require relocation be completed by the DTV transition date?

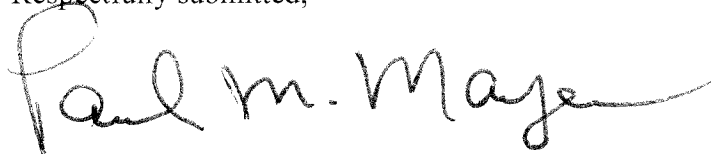2.   Should we set an alternative date, and if so, what would that date be?

Region 33 believes that further study is needed to determine a completion date but the DTV Transition of Feb 17, 2008 is felt to be not nearly enough time to complete the task. We see it as directly competing for time and resources needed for the on-going 800 MHz. rebanding, since in many cases the participants would be the same.

Region 33 Closing Comments:

We in public safety need to be aware of the fact that we can design/demand ourselves out of the running by the excessive cost of the <u>perfect system</u>. The scope of this project demands an open mind and understanding, absent that, the broadband network will never happen. Given the limited availability of spectrum and the size of these two contiguous blocks of spectrum, we see this as an excellent, but, possibly one time opportunity for public safety.

We also have to question the viability of the proposed broadband network. We are certainly not the business expert in this sense, nor do we know all the technology that may be available to support the system. However, our collective professional personal opinion is that the proposed broadband system can't be a good business risk. We are perplexed by the fact that the idea was spawned by a very successful businessman who knows the pitfalls of building a nation-wide communications network and the profitability of such a venture. From that perception we are encouraged and trust that there are components and less obvious facets to the project that make it attractive to potential bidders. For public safety's sake, we hope that the Commission can attract a bidder who can build and sustain such a system. We are also encouraged that at least one bidder did offer a token bid in the first auction which tells us that they did see business/profit potential.

Respectfully submitted,

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